

CHAPTER 19
SAND AND GRAVEL PERMITS
[Prior to 12/31/86, Conservation Commission[290] Ch 77]

571—19.1(461A) Purpose. This chapter provides the procedures for individuals and businesses to obtain a permit for removal of sand and gravel from state-owned lands and waters under the jurisdiction of the department of natural resources and the rules associated with the holding of a permit. The purpose of these rules is to ensure that the waterways are protected from permanent damage, that they remain ecologically intact, and that public recreational use is not adversely affected.

571—19.2(461A) Definitions.

“Department” means the department of natural resources.

“Director” means the director of the department of natural resources or a designee.

“Exclusive permit” means a permit issued for a described area which gives the permit holder sole and superior right to conduct activities as stated in this rule.

“Material” means any size particle of sand, gravel or stone.

“Nonexclusive permit” means a permit issued for a described area that does not give the permit holder sole right to conduct activities as described in this rule, and which may be superseded by the issuance of an exclusive permit.

“State-owned lands and waters” means lands and waters acquired by the state by fee title and sovereign lands and waters.

“Watercraft” means any vessel which through the buoyant force of water floats upon the water and is capable of carrying one or more persons.

571—19.3(461A) Permit applications. Applications shall be submitted to the department for nonexclusive or exclusive permits.

19.3(1) Application procedures. Applications shall be submitted on a form provided by the department and shall include the following:

- a. A fee of \$100 for the cost of inspection and issuance of each permit.
- b. A map of the specific area or segment of the river or stream to be included under the permit indicating the section, township, range, location of the processing plant and material stockpiles, the location shape, and size of existing or proposed tailing ponds for washing operations, and the method of material removal.
- c. A statement certifying that, if necessary, access over privately owned land to the permit site has been secured by the applicant for the use of the department personnel for inspection purposes.

19.3(2) Nonexclusive permits. Applications for nonexclusive permits may be submitted, for the current calendar year, at any time. Nonexclusive permits are subject to issuance of exclusive permits. In the event an exclusive permit is issued for a site covered by an existing nonexclusive permit, the nonexclusive permit shall be terminated in the same manner as termination for cause.

19.3(3) Exclusive permits. Applications for exclusive permits may be submitted, for the current calendar year, at any time. Applications for exclusive permits for the following calendar year shall only be accepted after November 15. In the event an application is received for an area covered by an existing nonexclusive permit, the holder of the existing permit shall be notified within 20 days and invited to submit an application for an exclusive permit. If more than one application for an exclusive permit site is received, issuance will be determined by written sealed bids. Bids shall be based on royalty rates. Bids submitted with a royalty rate less than 25 cents per ton shall not be accepted. The permit shall be issued to the applicant submitting the highest royalty rate bid.

19.3(4) *Application approval.* Each application will be reviewed by the department and a permit shall be issued unless it is determined that the proposed activity will result in significant temporary or permanent ecological damage or result in significant adverse effects on public recreational use.

19.3(5) *Insurance.* Prior to issuance of permits, approved applicants shall provide the department a certificate of insurance, covering the entire permit term, to jointly and severally indemnify and hold harmless the state of Iowa, its agencies, officials and employees from and against all liability, loss, damage or expense which may arise in consequence of issuance of the permit.

19.3(6) *Surety bonds.* Prior to issuance of permits, approved applicants shall provide to the department a surety bond in the amount of \$5,000, covering the term of the permit. The surety bond shall guarantee payment to the state of Iowa for all material removed under the permit within 60 days after expiration of the permit, unless the permit holder renews the permit within 30 days of said expiration date, and for the recovery of any costs associated with reclamation or other environmental mitigation required as a condition of issued permits.

571—19.4(461A) Permit conditions and operating procedures.

19.4(1) *Permit term.* Permits shall expire on December 31 of each calendar year.

19.4(2) *Permit area.* The size and configuration of permit sites shall be as designated by the director. The maximum continuous length of a river or stream covered by each permit shall be 4,500 lineal feet.

19.4(3) *Disturbance of bank.* Removal operations authorized by permits shall not be performed within 30 feet of the existing bank or breach the bank at any location along any lake, stream or river unless written permission is obtained from the director prior to performance of such operations.

19.4(4) *Water flow and watercraft obstruction.* Removal operations authorized by permits shall not obstruct the flow of water to the extent of preventing its ultimate passage to its usual course below the lands and waters covered by the permits and shall not prevent movement of watercraft through such waters.

19.4(5) *Waterway marking.* All equipment at permit sites that is on the surface of water or above or under the water shall be marked to be visible 24 hours per day. Any structure or other device below the water must be marked to indicate to watercraft operators where safe passage may occur. All markings shall conform to the uniform waterway marking system and be provided and installed by permit holders.

19.4(6) *Termination for cause.* Permits may be terminated by the director at any time if a permit holder fails to fulfill the obligations under the permit in a timely and proper manner, or if a permit holder violates any of the terms and conditions of the permit. In the event of termination, the director shall serve a notice of termination to the permit holder in person or to any agent of the permit holder at or near the operation site or by certified mail at the address indicated on the permit. The permit shall be considered terminated as of the date of service of the notice. In the event of termination, no refund of royalty or application fees will be paid. Upon service of the notice of termination, the permit holder shall immediately stop all removal operations and remove all equipment from the lands and waters covered by the permit within ten days after the date of the notice of termination. In the event of failure of the permit holder to remove all equipment from the premises within such time period, the director shall have the right to remove the equipment at the expense of the permit holder.

19.4(7) *Inspections.* Permit sites may be inspected by the director at any time during the permit term in order to verify compliance with permit terms and conditions, or thereafter until final payment is made under a terminated permit. Permit holders shall keep a daily record of the amount of material removed in the manner described by the director. All such records shall be open to inspection by the director at all times.

19.4(8) *Reporting procedures.* Permit holders shall furnish an itemized statement of material removal operations to the director within ten days after the last day of each calendar month. Statements shall also be filed in months when no materials are removed. Reporting procedures may be modified on a case-by-case basis at the discretion of the director, to accommodate differences in material removal or operation methods. However, reporting periods shall not be greater than one-month intervals. Permit holders shall notify the department ten days prior to the initial start of removal operations or whenever the previous monthly statement indicated no materials removed. Each cubic yard of sand, gravel, and stone removed under permits shall be considered to weigh 3000 pounds. Statements shall be submitted on forms furnished by the department and shall indicate the following:

- a.* Hours of removal operations performed each day on lands and waters covered by the permit.
- b.* Tons of material removed from the lands and waters covered by the permit each day.
- c.* Tons of material, from all sources, stockpiled at the operations site at the end of the month.

19.4(9) *Royalty payments.* Permit holders shall make royalty payments on a monthly basis for all material removed from permit sites within ten days after the last day of each calendar month. Monthly royalty payments shall be calculated using the tonnage of material removed as reported on the monthly statement. The royalty rate shall be 25 cents per ton or the rate determined by sealed bids. Exclusive permit holders shall pay an annual minimum royalty fee of \$10,000, to be paid upon issuance of the permit. Exclusive permit holders shall receive royalty credit for materials removed to a maximum of \$5,000 annually.

These rules are intended to implement Iowa Code sections 461A.52, 461A.53 and 461A.55 to 461A.57.

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